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Report of the Committee on Rule Making Power- of Supreme Court--Conformity of Minnesota and Federal Practice

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pared with the record at hand at the time of commitment. If they have made a good adjustment prior to the commitment hearing, socially and industrially, that should be given due weight. All questionable cases should be observed, studied and tested at the psychopathic unit of the University of Minnesota and in questionable cases those giving data relative to these people should be required to appear at hearings and testify under oath.

Your committee also finds that our State Institutions are expanding and that there is a constantly increasing number of applications for admission to the State Hospitals and feebleminded institutions. It is believed that many of the persons committed could be and should be taken care of by local governing bodies and relatives, and that persons are often committed so as to relieve the local governing bodies and individuals of the financial burden and inconvenience.

We therefore suggest that consideration be given to the advisability of requiring the local governing bodies to pay the per capita cost of patients committed by them to State Institutions with the right to assess that cost, if collectible, against those persons seeking the commitment. We would suggest an arrangement similar and analogous to that used in sending indigent sick people to the University Hospital. Such an arrangement would tend to reduce needless commitments.

Respectfully submitted,

HENRY A. JOHNSON, Chairman	EDWARD L. ROGERS
ROGER L. DELL	R. W. STANFORD
CARL G. NEUMEIER	LEONARD KEYES
HENRY N. BENSON	E. J. HINIKER
FRANCIS J. HANZEL	J. J. MORIARTY (Does not concur with
THOMAS WELCH	Committee's Report)

REPORT OF THE COMMITTEE ON RULE MAKING POWER-OF SUPREME COURT—CONFORMITY OF MINNESOTA AND FEDERAL PRACTICE

TO THE MINNESOTA STATE BAR ASSOCIATION

RECOMMENDATIONS

(a) That the legislative committee be instructed to seek legislation vesting in the Supreme Court full rule making power for all of the courts of the state.

(b) That the Supreme Court be requested in adopting rules to follow the Federal rules except where elimination or modification is plainly required.

(c) That this committee be continued to co-operate with the State Judicial Council and American Bar Association in securing appropriate legislative and judicial action.

REPORT

In our opinion it makes little difference whether the rules are first promulgated by the Supreme Court, subject to the Legislature making any modifications or repeals at its discretion, or whether the precedent of the Federal Enabling Act of June 19, 1934, and of many of the state statutes, be followed by providing that the rules be reported to the legislature shortly after the commencement of a regular session, not to take effect until a date

following the adjournment of such session, with such changes, if any, as may have been enacted at such session.

A bill, using the first method, was introduced as Senate file 214 in the 1943 session by Senator Galvin, but was defeated by a vote of thirty-four to twenty-eight and a motion to reconsider was lost by a vote of twenty-four to thirty-six. In the committee meetings of the House and Senate, no substantial opposition developed. It seems especially important to find friends for this measure in both houses that will consider its adoption as a matter of major importance. The objections in the 1943 session apparently came partly from misunderstanding and partly from differences of view respecting the form of the bill.

The trend throughout the United States has been to follow the Federal rule of placing the rule making power in the Supreme Court. This has been done in our neighbor states of Wisconsin, North Dakota, South Dakota and Iowa. An excellent discussion of the subject appears in the first report and in the third report of our State Judicial Council. The particular need is in the field of regulating the pleading, practice and procedure and the forms thereof in civil actions rather than in criminal actions.

Time has not permitted inspection of this committee report by all members, but we believe it substantially presents their views. The form of bill recommended by the Minnesota Judicial Council is attached to this report.

Respectfully submitted,

JOHN F. D. MEIGHEN, Chairman

WILBUR H. CHERRY

A. R. ENGLISH

E. J. KENNY

FREDERICK P. MEMMER

M. C. ROCKNE

A. W. SAWYER

RULE MAKING POWER BILL

Section 1. The supreme court of this state shall have the power to regulate the pleadings, practice, procedure, and the forms thereof in civil actions in all courts of this state, other than the probate courts, by rules promulgated by it from time to time. Such rules shall not abridge, enlarge, or modify the substantive rights of any litigant.

Section 2. Before any rules are adopted the supreme court shall appoint an advisory committee consisting of eight members of the bar of the state and at least two judges of the district court and one judge of a municipal court to assist the court in considering and preparing such rules as it may adopt.

Section 3. The judicial council, upon the request of the supreme court, or upon its own initiation in accordance with the provision of Chapt. 467, Laws 1937, may at any time make recommendations to the court for its consideration concerning rules of pleading, practice, procedure and the forms thereof in civil actions.

Section 4. Before any rule for the district or municipal courts is adopted, the supreme court shall distribute copies of the proposed rules to the bench and bar of the state for their consideration and suggestions and give due consideration to such suggestions as they may submit to the court. The Minnesota State Bar Association, the District Court Judges Association or the Municipal Court Judges Association may file with the court a petition specifying their suggestions concerning any existing or proposed rule and requesting a hearing thereon. The court shall thereupon grant a hearing thereon within six months after the filing of the petition.

Section 5. Any court, other than the supreme court, may adopt rules of court governing its practice; the judges of district courts, pursuant to Mason's Minnesota Statutes of 1927, Sections 174 and 182, and the judges of municipal courts, pursuant to Mason's Minnesota Statutes of 1927, Section 228, may adopt rules not in conflict with the rules promulgated by the supreme court. This act shall not affect the power of any other statutory body to make rules governing its practice.